IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1346 OF 1996

Azim Mahamad Khalfe ..Appellant

versus

1. Noormamad G. Belim
2. M. I. Pathan
3. National insurance Co. Ltd.
4. Narayan S. More
5. Maharashtra State Road Transport Corporation at Ratnagiri ..Respondents

Mr. S. M. Kazi for the Appellant.

Mr. G. S. Hegde with Lokesh for the Respondents.

Appeal against Respondent No.1 and 2 dismissed vide Additional Registrar's order dated 31.8.1999.

CORAM : D. G. DESHPANDE,J.

DATE : 29TH APRIL,2005

ORAL ORDER :

1. Heard advocate for the appellant and Mr. Hegde for respondents MSRTC, however MSRTC is exonerated from the liability. Therefore appeal is mainly against other respondents, who are served but

nobody is present for them. Appeal against Respondent Nos. 1 and 2 is dismissed vide Additional Registrar's order dated 31.8.1999.

2. Appellant was a claimant in claim petition before the MACT, Ratnagiri. He was travelling on the fateful day when in the bus of MSRTC he met with an accident on 11.8.1993 and in that accident apart from the other injuries, he lost both of his eyes. He was 28 years of age at the relevant time and was serving as a peon in Konkan Mercantile Co-operative Bank Ltd. Chiplun and was drawing salary of Rs.3,148.25 per month as per salary certificate Exhibit 46. Tribunal awarded him Rs.34,441.76 by way of special damages i.e. for medical expenses incurred, Rs.25,000/- for mental and physical agony and Rs.1,85,000/- only as and by way of general damages.

3. Counsel for the appellant contended that if the appellant was 28 years of age, he would have served up to the age of 58-60 years and since he has lost his service, that aspect has not been properly considered by the Tribunal.

4. In my opinion, even if the entire remaining life span of the appellant could not be considered, at least his earning for next 10 years should have

been considered, that comes to Rs.3,10,480/- and that much amount should have been awarded by way of general damages. No reasoning is given by the Tribunal for awarding him only Rs.1,85,000/- towards general damages. Therefore, this appeal is required to be allowed.

ORDER

. Appeal is partly allowed.

. Order of the Tribunal is modified. Appellant - claimant will be entitled to total amount of Rs.3,10,480/- by way of general damages. Compensation awarded on other heads to remain the same. Rest of the order of the tribunal to remain as it is.

29.04.2005 (D.G. DESHPANDE, J.)